REMARKS

In the Office Action mailed November 29, 2006, the Examiner rejected claims 27, 28, 32, 42, and 46 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,666,293 to Metz et al. ("Metz") in view of U.S. Patent No. 6,360,366 to Heath et al. ("Heath").

By this Reply, Applicants have amended claims 27, 28, 32, 42, and 46. No new matter has been added. Claims 27, 28, 32, 42, and 46 are currently pending on the merits. Applicants respectfully request reconsideration of this application for the reasons outlined below.

A.   Rejection under 35 U.S.C. § 103(a)

1.   Independent Claim 27

To establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), each of three requirements must be met. First, all the claim limitations must be taught or suggested by the prior art. M.P.E.P. § 2143. Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the references in a manner resulting in the claimed invention. Id. Third, a reasonable expectation of success must exist. Id. Each of these requirements must "be found in the prior art, not in Applicant's disclosure." Id. Moreover, the references "must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention." Id.

Applicants respectfully submit that no *prima facie* case of obviousness has been established with respect to claim 27 at least because Metz, viewed either alone or in

combination with <u>Heath</u>, fails to teach or suggest all of the elements recited in amended independent claim 27.

Independent claim 27 recites, among other subject matter, that "the first domain stores a version number of the control program stored in the second domain when the control program is valid and a predetermined number when the download procedure for updating the control program in the second domain was suspended due to a power failure or a signal transmission error, and wherein the initial boot routine includes checking whether or not a value stored in the first domain is the predetermined number and, when the value is the predetermined number, automatically updating the control program."

<u>Metz</u> fails to teach or suggest the above-mentioned subject matter. The Examiner asserted that "in a checksum procedure, a checksum value is calculated and stored in ROM 115 to be used to check the validity of the new operating system." <u>Office Action</u> at 3-4. "This bit pattern from ROM 115 is compared to the bit pattern downloaded with the operating system in Metz . . . " <u>Id</u>. Applicants respectfully disagree with the Examiner's characterization of <u>Metz</u>.

<u>Metz</u> discloses that "(t)he DET microprocessor 105 . . . performs a checksum operation on the data file to determine if there are any errors in the received data (step S6)." <u>Metz</u>, col. 37, lines 44-48. Nowhere does <u>Metz</u> teach or suggest that a checksum value is calculated and stored in ROM 115 or that a checksum value is the same as a bit pattern code. <u>Metz</u> is concerned only with the validity of a checksum result and discloses that "(i)f a checksum result is not valid, indicating errors in the extracted copy of the operating system stored in the RAM 122, then the microprocessor

110 returns to step S5 and again extracts the relevant operating system file from the broadcast carousel." Metz, col. 37, lines 48-52. Moreover, nowhere does Metz teach or suggest that this "checksum result" is compared to the bit pattern downloaded with the operating system. Instead, Metz discloses that "the microprocessor 110 compares [a] *bit pattern* [code] . . . in RAM 122 to the valid *bit pattern* [code] stored in ROM 115." Metz, col. 37, line 66-col. 38, line 1 (emphasis added).

In fact, the checksum operation of Metz and the comparison of bit pattern codes in Metz serve distinct purposes. The checksum operation is performed "to determine if there are any errors in the received data." Metz, col. 37, line 47. The comparison of a bit pattern code stored in the RAM 122 to a valid bit pattern code stored in ROM 115 is performed to determine if the downloaded operating system is a correct type for a particular set-top. Metz, col. 37, line 60-col. 38, line 1. Metz indicates that the checksum operation and the comparison of bit pattern codes may be performed as separate steps. Metz, col. 37, lines 65-66.

Thus, even if Metz discloses storing a bit pattern code in NVRAM 121, as asserted by the Examiner, the bit pattern code of Metz has nothing to do with "a power failure or a signal transmission error." Furthermore, because Metz fails to teach or suggest storing a checksum result in NVRAM 121, Metz cannot possibly teach or suggest that "the first domain *stores . . . a predetermined number when the download procedure . . . was suspended due to a power failure or a signal transmission error.*" (emphasis added).

Moreover, because Metz fails to teach or suggest that the first domain stores the "predetermined number when the download procedure for updating the control program

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in the second domain was suspended due to a power failure or a signal transmission error," Metz also fails to teach or suggest at least that "the initial boot routine includes checking whether or not a value stored in the first domain is the predetermined number, and when the value is the predetermined number, automatically updating the control program," as recited in amended independent claim 27.

Heath fails to overcome the above-outlined deficiencies of Metz. Instead, Heath relates to methods and systems for maintaining application programs on a client computer in a client-server network environment, and allegedly "teaches a method that detects if the operating system is corrupted during transmission and if so, may automatically download a new version from a network server." Office Action at 4. Thus, Heath fails to teach or suggest that "the first domain [of a NVRAM] stores . . . a predetermined number when the download procedure . . . was suspended due to a power failure or a signal transmission error," and that "the initial boot routine includes checking whether or not a value stored in the first domain is the predetermined number and, when the value is the predetermined number, automatically updating the control program."

For at least the reasons set forth above, Metz and Heath, taken alone or in combination, fail to support the § 103 rejection of amended independent claim 27. Accordingly, Applicants respectfully request reconsideration and withdrawal of the § 103 rejection of claim 27 based on Metz and Heath.

2. Independent Claim 42

The Examiner rejected independent claim 42 for the same reasons the Examiner rejected independent claim 27 because claim 42 "corresponds with subject matter

mentioned above in the rejection 27." <u>Office Action</u> at 6. For at least the reasons set forth with respect to amended independent claim 27, <u>Metz</u> and <u>Heath</u>, taken alone or in combination, also fail to support the § 103 rejection of claim 42. Accordingly, Applicants respectfully request reconsideration and withdrawal of the § 103 rejection of claim 42 based on <u>Metz</u> and <u>Heath</u>.

3.   Claims 28, 32, and 46

Amended claims 28 and 32 depend from independent claim 27, and amended claim 46 depends from independent claim 42. For at least the same reasons set forth with respect to the § 103 rejection of claims 27 and 42, <u>Metz</u> and <u>Heath</u>, taken alone or in combination, fail to support the § 103 rejection of claims 28, 32, and 46. Accordingly, Applicants respectfully request reconsideration and withdrawal of the § 103 rejection of claims 28, 32, and 46.

B.   Conclusion

For at least the reasons outlined above, Applicants respectfully request reconsideration and withdrawal of the objection to the drawings and the claim rejections, and the timely allowance of pending claims 27, 28, 32, 42, and 46.

If the Examiner believes that a telephone conversation might advance prosecution of this application, the Examiner is cordially invited to call Applicants' undersigned attorney at (571) 203-2765.
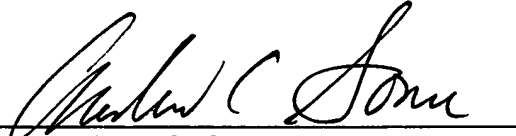
Applicants respectfully submit that the Office Action contains a number of assertions concerning the related art and the claims. Regardless of whether those assertions are addressed specifically herein, Applicants respectfully decline to automatically subscribe to them.

Please grant any extensions of time required to enter this Reply and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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Dated: February 28, 2007   By: _____
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